



U.S. Department of Justice
Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 21, 1992

John E. Pilcher, Esq.
Pilcher and Pilcher
P. O. Box 1346
Selma, Alabama 36702-1346

Dear Mr. Pilcher:

This refers to the 1992 redistricting plan for the board of education in Dallas County, Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on May 22, 1992.

We have considered carefully the information you have provided, as well as Census data and information received from other interested parties. Between 1980 and 1990, the black share of Dallas County's population increased from 54.5 percent to 57.8 percent. Under the existing plan, blacks constitute a significant majority of the population in Districts 1, 2 and 3 (83%, 65% and 71% black, respectively). On May 1, 1992, the Attorney General interposed a Section 5 objection to an earlier plan drawn by the school board. Our objection was based on that plan's reduction of the black share of the population in District 2 from 65.3 percent to 57.6 percent. This reduction appeared to minimize the opportunity afforded black voters to elect a candidate of their choice in this district. Moreover, the school board's redistricting decisions appeared to be motivated, in part, by a desire to protect the incumbent board member from District 2. In addition, the objected-to plan overconcentrated black residents in Districts 1 and 3 (84% and 76% black, respectively), and fragmented contiguous black populations in the Selma area between Districts 3 and 5.

Analysis of the plan now under submission reveals that it, too, reduces the black share of the population in District 2 (from 65.3 percent to 61.6 percent) and fails to address the overconcentration and fragmentation of black population identified in our previous objection. As we noted in our May 1, 1992, objection letter, this kind of reduction in black population in District 2 is not necessary to comply with the one person, one vote requirement of the United States Constitution. Moreover, the school board has continued to reject alternative plans that balanced the county's population among the districts without reducing the black percentage in District 2. The board suggests that the changes from the existing plan are motivated by a desire on the part of the board's majority to create a "swing" district, i.e., a district in which the white incumbent in District 2 will have a greater chance of reelection. This result may not be accomplished at the expense of minority voting potential. Garza v. Los Angeles County, 918 F.2d 763, 771 (9th Cir. 1990), cert. denied, 111 S. Ct. 681 (1991); Ketchum v. Byrne, 740 F.2d 1398, 1408-09, (7th Cir. 1984), cert. denied, 471 U.S. 1135 (1985).

In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the school board's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the 1992 redistricting plan for the Dallas County Board of Education.

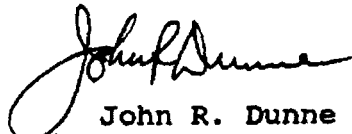
We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed redistricting plan has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, you may request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the 1992 redistricting plan continues to be legally unenforceable. Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

We also note that the 1992 redistricting plan for the Dallas County Commission was implemented for the June 2, 1992, primary election for the board of education. While the county has obtained Section 5 preclearance for the use of that redistricting plan for county commission elections, Section 5 preclearance is necessary but has not been obtained for use of that plan for county board of education elections.

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To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the Dallas County Board of Education plans to take concerning this matter. If you have any questions, you should call Richard Jerome (202-514-8696), an attorney in the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division